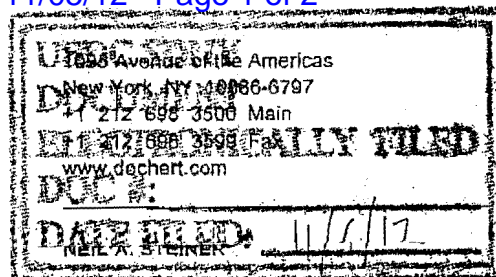


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October 26, 2012

**BY TELECOPY (WITH PERMISSION)**

The Honorable Deborah A. Batts  
United States District Court  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 2510  
New York, New York 10007-1312

Re: *In re J. Ezra Merkin and BDO Seidman Securities Litigation*, C.A. No. 08-Civ-10922  
*Croscill Inc., et al. v. Gabriel Capital, L.P., et al.*, C.A. No. 09-Civ-6031  
*Morris Fuchs Holdings, LLC v. Gabriel Capital, L.P., et al.*, C.A. No. 09-Civ-6483

Dear Judge Batts:

We represent Defendants J. Ezra Merkin and Gabriel Capital Corporation (the "Merkin Defendants") in the above-captioned matters. We respectfully submit this letter concerning the Court's September 10, 2012, Order (the "Order") granting in part and reserving decision in part on Plaintiffs' motion to alter or amend the judgment dismissing this action with prejudice, and directing Defendants to submit a supplemental brief addressing Plaintiffs' state law claims on or before October 26, 2012.

As the Court may be aware, the Merkin Defendants have reached a settlement of related state-court litigation commenced by the New York Attorney General, pursuant to which the overwhelming majority of the settlement funds would be distributed directly to eligible investors in the Ascot, Gabriel and Ariel hedge funds who affirmatively elect to participate in the settlement. Closing of that settlement has not yet occurred due to an action by the SIPC Trustee of the Madoff estate to enjoin the settlement (a hearing on the motion to withdraw the reference of that action to the bankruptcy court is scheduled before Judge Rakoff on November 5, 2012). The parties anticipate that consummation of the settlement in the NYAG action is likely to resolve Plaintiffs' claims against the Merkin Defendants in this action.

**MEMO ENDORSED**

Accordingly, rather than burden the Court with unnecessary supplemental briefing, we respectfully request that the deadline to submit the supplemental brief pursuant to the September

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The Honorable Deborah A. Batts  
October 26, 2012  
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Granted  
/DAB/  
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[ 10 Order be extended to December 7, 2012, and that the parties update the Court as to the status of the related NYAG action on or before November 30, 2012. Counsel for the other parties have advised that they do not object to the proposed adjournment. ]

Respectfully submitted,



Neil A. Steiner

cc: All Counsel of Record (via email)

MEMO ENDORSED

SO ORDERED



DEBORAH A. BATTIS  
UNITED STATES DISTRICT JUDGE

11/6/12